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6 ATTORNEYS FOR YAHOO! INC.

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
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12 SOFTWARE RIGHTS ARCHIVE, LLC,

13 Plaintiff,

14 v.

15 GOOGLE INC., YAHOO! INC., IAC
16 SEARCH & MEDIA, INC., AOL LLC,
and LYCOS, INC.

17 Defendants.
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Case No. Misc. Action C-09-80004-RMW¹

(Case No. 2:07-cv-511 (CE) pending in the
Eastern District of Texas)

**YAHOO!'S RESPONSE TO SOFTWARE
RIGHTS ARCHIVE, LLC'S STATEMENT
OF RECENT DECISION**

HEARING REQUESTED

Date: April 17, 2009
Time: 9:00 AM
Judge: Ronald M. Whyte

27 ¹ Consolidated for hearing with *Google v. Egger*, Case No. 5:08-03172-RMW.
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1 On March 31, 2009, Magistrate Judge Everingham issued a memorandum opinion and
2 order denying Defendants'² motion to dismiss the Texas action for lack of standing. On April 2,
3 2009, Software Rights Archive, LLC ("SRA") submitted a "Statement of Recent Decision"³
4 attaching this order. In its Statement, SRA suggests that the order "moot[s] [Yahoo!']s] motions
5 to compel discovery from WSGR and Murray."

6 For the reasons set forth in (1) Yahoo!'s reply brief in support of its motions to compel
7 and (2) Plaintiffs' reply brief in support of their motion to compel production of documents,⁴ both
8 of which are filed concurrently herewith, SRA's suggestion is incorrect. The ruling on the motion
9 to dismiss was premised on the court's conclusion that patent rights were transferred prior to the
10 commencement of Chapter 11 proceedings by Site Technologies, Inc. ("Site Tech"). The ruling
11 does not change the fact that Jeffrey Ait, who was named "Responsible Person" under Site Tech's
12 Chapter 11 plan, has been discharged from his duties as Responsible Person and thus has no
13 authority to assert privilege on behalf of Site Tech. In addition, the subpoenaed documents
14 remain relevant not only to the standing issue, but also to the central issues of patent
15 infringement, validity, and damages. As to the standing issue itself, the documents are critical to
16 any motion to reconsider Judge Everingham's order.

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18 Dated: April 3, 2009

MORRISON & FOERSTER LLP

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20 By: /s/
Richard S.J. Hung
21 Attorneys for Defendant Yahoo! Inc.

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24 ² "Defendants" refers to Google, Inc., Yahoo!, Inc., IAC Search & Media, Inc., AOL
LLC, and Lycos, Inc. (defendants in Case No. 2:07-cv-511 (CE) (E.D. Tex.)).

25 ³ Docket No. 94 (Case No. 5:08-03172-RMW).

26 ⁴ Defendants in the Texas action are Plaintiffs in the declaratory judgment action before
27 this Court.